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Public Disclosure Commission

Rob McKenna

# ATTORNEY GENERAL OF WASHINGTON

1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

October 12, 2005

Vicki Rippie  
Executive Director  
Public Disclosure Commission  
P. O. Box 40908  
Olympia, WA 98504-0908

RE: Richard Pope 45 Day Letter – Patricia Davis, Citizens for a Healthy Economy

Dear Ms. Rippie: *WR*

The Attorney General's Office has received a second complaint from Mr. Richard Pope against Patricia Davis. The complaint alleges violations of the Public Disclosure Law, Ch. 42.17 RCW, and was filed pursuant to RCW 42.17.400(4). As you know, RCW 42.17.400(4) requires action on the complaint within 45 days of its receipt. In this case, the complaint was received on October 12, 2005. I understand that you have received a copy of the letter by email, and as such, have not provided a separate copy.

As is customary with these types of complaints, we are referring the complaint to your agency for investigation. We will await the results of your investigation before proceeding further. In the event the Commission determines that it is appropriate to schedule an administrative hearing, please advise. Otherwise, we would request the Commission's recommendation with the report of investigation. Please note that Mr. Pope has indicated that in the event action is not brought within 45 days, he will bring a citizen's action under RCW 42.17.400.

I have been assigned the file in our office. I am available to answer any legal questions you may have during the course of your investigation.

If you have any questions, please do not hesitate to call me at 753-0543.

Sincerely,

LINDA A. DALTON  
Sr. Assistant Attorney General

LAD:mb

cc: Richard Pope  
Rob McKenna, Attorney General  
Jeff Goltz, Deputy Attorney General

Richard L. Pope, Jr.  
1839 – 151<sup>st</sup> Avenue, S.E.  
Bellevue, Washington 98007

Tel: (425) 747-4463  
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**VIA FAX TO 360-664-0228 AND CERTIFIED MAIL**

**TOTAL PAGES: 25**

Honorable Robert M. McKenna  
Attorney General of Washington  
1125 Washington Street, S.E.  
Post Office Box 40100  
Olympia, Washington 98504

Re: Citizen Action Letter, RCW 42.17.400(4)  
Patricia J. Davis – 2001 Campaign for Port of Seattle Commissioner No. 4

Dear Attorney General McKenna:

This letter concerns Patricia J. Davis, who was a successful candidate for Port of Seattle Commissioner Position No. 4 in the September 18, 2001 primary election and the November 6, 2001 general election. Ms. Davis was originally elected to this position in November 1985, and was re-elected in November 1991, November 1997, and November 2001. Ms. Davis has continuously served in this position since January 1986.

I am sending this written notification pursuant to the citizen action provisions of RCW 42.17.400(4) to inform you that I have reason to believe that Patricia J. Davis may have embezzled nearly \$10,000.00 from her 2001 campaign funds by illegally converting this money to her personal use in violation of RCW 42.17.125(3) and RCW 42.17.095. In addition, Ms. Davis may have violated RCW 42.17.080(2), concerning filing reports of contributions and expenditures, filing some of her reports as much as 99 days past due. Finally, Ms. Davis may have made an illegal contribution of her own funds to the campaign of \$8,000.00 on October 17, 2001, in violation of RCW 42.17.105(8) which prohibits any contributions over \$5,000.00 within 21 days before the general election.

I am filing this as a citizen action letter, instead of a mere complaint with the Public Disclosure Commission, as it appears that Ms. Davis willfully violated campaign finance laws in a most egregious way during her 2001 campaign. Ms. Davis raised some \$13,465.00 in campaign funds AFTER the November 6, 2001 general election, which appears to be for the specific purpose of converting \$13,655.00 of her surplus campaign funds to her own personal use (\$9,855.00 more than the \$3,800.00 permitted under RCW 42.17.125(3)). Ms. Davis was also habitually very late filing her campaign finance reports – especially the reports required seven days before the primary and general election – a pattern which Ms. Davis and the same treasurer (Denton Kiehle) have repeated in 2005. And giving an excess contribution seriously violates the integrity of the election process.

Ms. Davis raised a total of \$116,149.20 for her 2001 re-election campaign to the Port of Seattle, including a total of \$23,000.00 in personal loans from herself to the campaign. These personal loans from Ms. Davis to her 2001 campaign included \$5,000.00 on May 15, 2001, \$10,000.00 on August 29, 2001, and \$8,000.00 on October 17, 2001. The October 17, 2001 loan was only 20 days before the general election.

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After the November 6, 2001 general election, Ms. Davis raised a total of \$13,465.00 in additional contributions. This included \$10,440.00 that was received and deposited on November 20, 2001, \$2,850.00 that was raised and deposited on November 29, 2001, and \$175.00 that was raised and deposited on February 28, 2002.

On February 28, 2002, Ms. Davis made a loan repayment to herself in the amount of \$13,655.00 and purportedly forgave the remaining \$9,345.00 she loaned the campaign.

This loan repayment was in flagrant violation of RCW 42.17.125(3), which places very strict limits on how much a candidate can be reimbursed for loans of the candidate's own funds that have been made to a campaign. In 2002, that limit was \$3,800.00, based on the periodic adjustment for inflation under RCW 42.17.690. During 2001, a lower limit of \$3,500.00 had applied, and was changed to \$3,800.00 effective on January 1, 2002 under an amendment to WAC 390-05-400 filed under WSR 01-22-050.

RCW 42.17.095 also applies to candidate surplus funds, when more money remains at the end of a campaign than is necessary for legitimate campaign expenses. Several uses are permitted under RCW 42.17.095, including giving the money to charity, giving the money to a political party, and giving the money to the state treasury. RCW 42.17.095 does not allow candidates to simply pocket their surplus campaign funds.

As a result, Ms. Davis illegally converted at least \$9,855.00 of her surplus campaign funds to her personal use – assuming that the higher \$3,800.00 limit in candidate loan repayments for 2002 applied, as opposed to the lower \$3,500.00 limit for 2001 (when the loans were made and the election was held).

The State of Washington should definitely pursue its civil remedies against Ms. Davis for this illegal embezzlement of surplus campaign funds for her own personal use. Ms. Davis should be required to take \$9,855.00 out of her own pocket, and turn these surplus funds over to the state treasury pursuant to RCW 42.17.095(5). In addition, Ms. Davis should receive the maximum civil penalty allowable under RCW 42.17.390(3), which is \$10,000.00 for each violation – especially given the personal benefit to herself.

I would also request the State of Washington to consider whether criminal charges would be appropriate. Campaign funds are held in trust by the candidate and may be spent only for purposes allowable by law. RCW 42.17.095 and RCW 42.17.125 strictly prohibit a candidate from converting these funds to personal use, except for the extremely limited circumstances permitted under these sections. If a candidate illegally converts surplus campaign funds to their own personal use, this would seem to constitute Theft under RCW 9A.52.020(1) – just like illegal conversion committed by any other trustee.

Ms. Davis' wrongdoing seems to be particularly egregious and intentional, since she had raised sufficient money prior to the November 6, 2001 general election to cover all of her campaign expenses (other than repayment of her own personal loans). After she was successfully re-elected, she raised another \$13,465.00 from various contributors – many of whom appear to be clients of the Port of Seattle. The post-election contributions appear to be directly related to illegal \$13,655.00 loan repayment made after the election. And Ms. Davis filed her campaign finance reports as much as 99 days late to conceal this.

I am aware that criminal statutes generally have a three year statute of limitations for Class B Felonies, such as First Degree Theft, pursuant to RCW 9A.04.080(1)(h). This three years has already expired. By contrast, civil penalties can be imposed under RCW 42.17.410 for campaign finance violations for up to five years after the violation occurs.

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However, if the State of Washington is interested in pursuing felon theft charges against Ms. Davis for this unlawful conversion of campaign funds to her personal use, the 10 year statute of limitations under RCW 9A.04.080(1)(b)(i) may very well be applicable. This longer time limit covers: "Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office." I would respectfully submit that illegal conversion of nearly \$10,000.00 in surplus campaign funds by an incumbent office holder "constitutes a breach of ... public duty" and should be subject to the 10 year limit.

The next issue with Ms. Davis' 2001 campaign concerns the \$8,000.00 loan that she made to her own campaign on October 17, 2001 – just 20 days before the general election. RCW 42.17.105(8) prohibits any contributions totaling more than \$5,000.00 from any single source within 21 days before the general election. Ms. Davis' personal loan on October 17, 2001 was \$3,000.00 in excess of this late contribution limit.

Once again, Ms. Davis should receive the maximum civil penalty allowable under RCW 42.17.390(3) of \$10,000.00 for this violation. This illegally excessive contribution allowed Ms. Davis to spend \$3,000.00 more than would have otherwise been available – since her contributions prior to election day basically balanced her expenditures. Ms. Davis was in a very tight race for re-election, having received only 44.26% of the vote in the September 18, 2001 primary election against three opponents. There was certainly a strong personal motivation for Ms. Davis to make an illegal late campaign contribution.

Finally, Ms. Davis was habitually late in filing her campaign finance reports during her 2001 campaign – as much as 99 days late – which seems to have been calculated to generally conceal her campaign finances in this very close election and also to divert attention from her later decision to illegally convert funds to her personal use.

Ms. Davis was required to file a campaign finance report of contributions and expenditures on June 11, 2001 for the period May 15, 2001 to May 31, 2001. Ms. Davis did not file this C4 campaign finance report until June 15, 2001, which was 4 days late in violation of RCW 42.17.080(2)(c).

Ms. Davis was required to file a campaign finance report of contributions and expenditures on July 10, 2001 for the period June 1, 2001 to June 30, 2001. Ms. Davis did not file this C4 campaign finance report until July 16, 2001, which was 6 days late in violation of RCW 42.17.080(2)(c).

Ms. Davis was required to file a campaign finance report of contributions and expenditures on September 11, 2001 for the period August 22, 2001 to September 10, 2001. This is the seven day pre-primary report and timely filing is essential for effective public disclosure. Ms. Davis did not file this C4 campaign finance report until October 30, 2001, which was 50 days late in violation of RCW 42.17.080(2)(a).

Ms. Davis was required to file a campaign finance report of contributions and expenditures on October 30, 2001 for the period October 10, 2001 to October 29, 2001. This is the seven day pre-general report and timely filing is essential for effective public disclosure. Ms. Davis did not file this C4 campaign finance report until November 19, 2001, which was 21 days late in violation of RCW 42.17.080(2)(a).

Ms. Davis was required to file a campaign finance report of contributions and expenditures on December 10, 2001 for the period October 30, 2001 to November 30, 2001. Ms. Davis did not file this C4 campaign finance report until March 19, 2002, which was 99 days late in violation of RCW 42.17.080(2)(c).

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This 99 day late violation regarding the report due on December 10, 2001 was particularly egregious. This C4 campaign finance report contains \$13,290.00 in post-general election contributions collected by Ms. Davis in late November 2001 after she won re-election to her position with the Port of Seattle. It is outrageous that Ms. Davis chose to conceal these contributions from the public for over three months, until after she had decided to illegally convert nearly \$10,000.00 surplus funds to her personal funds.

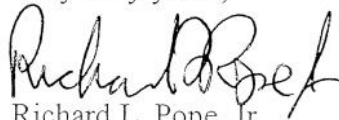
Ms. Davis was required to file a campaign finance report of contributions and expenditures on March 11, 2002 for the period December 1, 2001 to February 28, 2002. Ms. Davis did not file this C4 campaign finance report until March 19, 2002, which was 8 days late in violation of RCW 42.17.080(2)(c).

If enforcement action is not commenced by filing a civil action in court in the name of the State of Washington, within forty-five days of your receipt of this written notification, I reserve my right under RCW 42.17.400(4) to give a second written notification that I will commence citizen's action in the name of the State of Washington over these matters if there has been further failure to so act within ten days of the receipt of such second written notification, and thereafter commence a civil action on my own initiative in the name of the State of Washington over these matters.

I am also forwarding a copy of this citizen action letter to the prosecuting attorney of King County, since the Port of Seattle is located in that jurisdiction. Further, I am sending a copy to the prosecuting attorney of Thurston County, since the PDC office in Olympia where campaign finance reports are required to be filed is located in that county.

Thank you for your careful attention in this matter.

Very truly yours,

  
Richard L. Pope, Jr.

Enclosures:

1. C1 Candidate Registration, Filed 06/07/2001
2. C1 Candidate Registration, Filed 07/16/2001
3. C4 Campaign Finance Report, Filed 06/15/2001 (without attachments)
4. C4 Campaign Finance Report, Filed 07/16/2001 (without attachments)
5. C4 Campaign Finance Report, Filed 10/30/2001 (without attachments)
6. C4 Campaign Finance Report, Filed 11/19/2001 (without attachments)
7. C4 Campaign Finance Report, Filed 03/19/2002 (ending on 11/30/2001)
  - a. Schedule A, Filed 03/19/2002 (ending on 11/30/2001)
  - b. Schedule L, Filed 03/19/2002 (ending on 11/30/2001)
  - c. C3 Contribution Report, Filed 03/19/2002 (11/20/2001 deposit)
  - d. C3 Contribution Report, Filed 03/19/2002 (11/29/2001 deposit)
8. C4 Campaign Finance Report, Filed 03/19/2002 (ending on 02/28/2002)
  - a. Schedule A, Filed 03/19/2002 (ending on 02/28/2002)
  - b. Schedule L, Filed 03/19/2002 (ending on 02/28/2002)
  - c. C3 Contribution Report, Filed 03/19/2002 (02/28/2002 deposit)



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DECLARATION

I declare under penalty of perjury under the laws of the State of Washington that the above and foregoing is true and correct to the best of my knowledge and belief.

Signed at Bellevue, Washington on October 11 , 2005.

  
RICHARD L. POPE, JR.

Cc: Vicki Rippie  
Executive Director  
Public Disclosure Commission  
711 Capitol Way, Room 206  
Post Office Box 40908  
Olympia, Washington 98504-0908  
**FAX TO 360-753-1112 AND REGULAR MAIL**

Honorable Norman K. Maleng  
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Honorable Edward G. Holm  
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